



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

C/O: Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Room W64-232
Washington, DC 20590

April 1, 2011

The Honorable Anne S. Ferro
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Ferro:

At the March 31 – April 1, 2011 meeting, the Motor Carrier Safety Advisory Committee (MCSAC) identified an issue to bring to the Administrator's attention. This issue arose in a discussion of the January 2011 United States Government Accountability Office (GAO) report, *Commercial Motor Carriers: More Could Be Done to Determine Impact of Excessive Loading and Unloading Wait Times on Hours of Service Violations* (GAO-11-198), regarding excessive detention time that negatively impacts the ability of drivers to legally comply with the federal Hours of Service (HOS) safety regulations.

In that Federal Motor Carrier Safety Administration (FMCSA) regulations are focused on drivers and carriers, the MCSAC respectfully submits that other key stakeholders are not being adequately addressed. MCSAC believes in order for FMCSA to effectively and efficiently address these concerns and the report's findings, FMCSA must possess the requisite authority to hold the other key stakeholders responsible for ensuring safety, in recognition of the fact that safety upon the roadways is not exclusively a driver/carrier obligation. The report indicates that undue detention times at shipping facilities can have a detrimental effect on safety compliance, which finding MCSAC confirms. This issue should be addressed by policymakers, as oftentimes the entity causing the problem for the driver/carrier is their customer and/or employer. Thus, the driver/carrier is in an untenable position to address this problem directly and effectively.

Bottom line: FMCSA is charged with increasing commercial vehicle safety and reducing commercial vehicle crashes, and yet lacks the jurisdiction and authority over all potential responsible parties.

Regarding FMCSA's ability to address both the report's finding and the issues, MCSAC has the following recommendations:

1. MCSAC recommends FMCSA seek authority from Congress to grant FMCSA statutory authority over other entities that cause and/or contribute to violations of the Federal Motor Carrier Safety Regulations (e.g., shippers). The type of statutory authority being requested would be similar to the authority held by the Federal Aviation Administration in order for it

to effectively address safety concerns. MCSAC respectfully suggests that members of Congress have already recognized this issue, as evidenced by HR 756, now pending, which may be a vehicle to address this concern. To facilitate the drafting of an ultimate regulation, MCSAC will conduct further discussions and submit recommendations to FMCSA.

2. MCSAC recommends that FMCSA conduct the studies suggested by GAO-11-198 and issue the requisite regulations to address the issue.
3. MCSAC recommends that FMCSA consider requisite action against shippers, receivers, intermediaries, and any other party that unduly detains CMV drivers which places the driver in a position of violating § 395.8.
4. MCSAC recommends that FMCSA set up a complaint line for drivers to report shipping facilities that consistently detain and interfere with a driver's ability to comply with HOS.
5. MCSAC recommends that FMCSA develop a "Truck Driver's Bill of Rights," which will address subjects such as:
 - i. Rest areas for drivers (bathroom and shower) and truck parking
 - ii. Detention compensation for drivers
 - iii. Availability of food and drink.

I submit this letter to FMCSA as recommendations for its consideration.

Sincerely,

//signed//

David R. Parker
Chairman